



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 07493-99

26 July 2000

ATG [REDACTED] USN

Dear Senior [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 3 March and 22 May 2000, copies of which are attached, and your letter dated 29 June 2000 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found, contrary to paragraph 2.c of the advisory opinion dated 22 May 2000, that the contested performance evaluation was procedurally incorrect, in that it largely documented events from the preceding period 4 to 15 September 1998, for which you received a "not observed" report from the same reporting senior. However, the Board did not feel this technical error warranted removing an otherwise valid adverse performance appraisal. They found that the reporting senior's endorsement of 11 December 1998 on your rebuttal statement of 12 November 1998 adequately clarified when the events of concern to him actually occurred. Finally, they observed that if these events had been documented properly in your uncontested evaluation for 4 to 15 September 1998, that evaluation would have been adverse.

Since you have not been selected by a promotion board for advancement to pay grade E-9, and the Board did not find sufficient basis to remove the contested evaluation recommending

against your advancement, they were unable to find you should be advanced retroactively. If your command did not prepare a service record page 13 ("Administrative Remarks") entry removing your advancement recommendation, the Board found this irregularity would not invalidate the withdrawal of your recommendation.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures



**DEPARTMENT OF THE NAVY**  
**NAVY PERSONNEL COMMAND**  
**5720 INTEGRITY DRIVE**  
**MILLINGTON TN 38055-0000**

1430  
Ser 85/242  
3 Mar 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL  
RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF  
ATCS(AW) [REDACTED], [REDACTED]

Ref: (a) BUPERSINST 1430.16D

Encl: (1) BCNR file #07493-99

1. Based on policy and guidelines established in reference (a), enclosure (1) is returned recommending disapproval.

2. Senior [REDACTED] recommendation for advancement was removed by a Fitness Report dated <sup>ENDING 2 NOV 98</sup> 13 February 1997. His statement that a NAVPERS 1070/613, page 13, was never given to him can not be confirmed. This page 13 would be maintained in Senior [REDACTED] field service record. Additionally, during this time Senior [REDACTED] was not selected for advancement. Due to this, consideration can not be given to advance him to Master Chief Petty Officer.

3. It is recommended that Senior [REDACTED] request removal of the Fitness Report dated <sup>ENDING 2 NOV 98</sup> 13 February 1997. If, this is done then Senior [REDACTED] would have a basis to request a Special Selection Board.

[REDACTED]  
By direction

7493-99



DEPARTMENT OF THE NAVY  
NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

1610  
PERS-311  
22 May 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: ATCS [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 15 September 1998 to 2 November 1998.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member indicated he did desire to submit a statement. The member's statement and reporting senior's endorsement is properly reflected in his record.

b. The report is a Detachment of Individual/Regular report. The member alleges the adverse report is a difference of managerial/leadership style between the member and the Commanding Officer.

c. The fitness report appears to be procedurally correct. The reporting senior may properly comment or assign grades based on performance of duty or events that occurred during the reporting period. Nothing provided in the petition demonstrates that the reporting senior acted improperly, violated requirements, or that he abused his discretionary authority in evaluating the member's performance.

d. Counseling of an individual takes many forms. Whether or not Senior Chief [REDACTED] as given written, verbal counseling, or Letter of Instruction (LOI) does not invalidate the fitness report. Command [REDACTED] indicated he did counsel the member on the fitness report and reiterated it in his endorsement to the member's statement.

- e. The member does not prove the report to be unjust or in error.
3. We recommend the member's record remain unchanged.

[REDACTED]

Head, Performance  
Evaluation Branch